

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 10, 2006

AMENDED IN SENATE APRIL 18, 2006

SENATE BILL

No. 1422

Introduced by Senator Margett

February 22, 2006

An act to amend Section 12838.1 of the Government Code, to amend Sections 1522.1, *11162.5*, 121349.2 and 121349.3 of the Health and Safety Code, to amend Sections 19.8, 148.5, 186.22a, 538e, 667.7, 804, 851.8, 3041.7, *6044*, 11106, 11165.7, 11166.01, 11167, 12001, *12022.53*, and 12553 *of, and to amend and renumber Section 646.91A of*, and to repeal Section 666.7 of the Penal Code, and to amend Sections 241.1 and 3150 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1422, as amended, Margett. Public safety: omnibus bill.

Existing law generally regulates public safety.

This bill would make various technical, nonsubstantive changes to provisions related to, among other things, crime, firearms, child welfare, and controlled substance addiction.

Existing law provides that every person who reports to any peace officer, as specified, or to a district attorney or a deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

This bill would also include a report to the Attorney General or to a deputy attorney general in these provisions. *Additionally, this bill*

would designate prosecuting attorneys rather than district attorneys as the representative of the people in specified proceedings.

Because this bill would expand the definition of a crime, this bill would impose a state-mandated local program.

Existing law, in a nonsubstantive provision, lists sentence enhancements.

This bill would delete that provision.

Existing law establishes a Council on Mentally Ill Offenders which will sunset on December 31, 2006.

This bill would remove that sunset date.

Existing law contains sentence enhancements for persons convicted of enumerated felonies in the commission of specified felonies.

This bill would codify the California Supreme Court's interpretation of that statute, and make other technical changes.

Existing law provides that at a hearing concerning the parole release date of a prisoner under a life sentence, the prosecutor of the county from which the prisoner was committed shall be the sole representative of the interests of the people.

This bill would specify that this provision shall apply except in cases in which the Attorney General prosecuted the case at the trial level.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12838.1 of the Government Code is
- 2 amended to read:
- 3 12838.1. (a) There is hereby created within the Department
- 4 of Corrections and Rehabilitation, under the Chief Deputy
- 5 Secretary for Adult Operations, the Division of Adult Institutions
- 6 and the Division of Adult Parole Operations. Each division shall
- 7 be headed by a division chief, who shall be appointed by the
- 8 Governor, upon recommendation of the secretary, subject to

1 Senate confirmation, who shall serve at the pleasure of the
2 Governor.

3 (b) The Governor shall, upon recommendation of the
4 secretary, appoint five subordinate officers to the Chief of the
5 Division of Adult Institutions, subject to Senate confirmation,
6 who shall serve at the pleasure of the Governor. Each subordinate
7 officer appointed pursuant to this subdivision shall oversee an
8 identified category of adult institutions, one of which shall be
9 female offender facilities.

10 SEC. 1.5. Section 1522.1 of the Health and Safety Code is
11 amended to read:

12 1522.1. Prior to granting a license to, or otherwise approving,
13 any individual to care for children, the department shall check the
14 Child Abuse-Registry *Central Index* pursuant to paragraph (4) of
15 subdivision (b) of Section 11170 of the Penal Code. The
16 Department of Justice shall maintain and continually update an
17 index of reports of child abuse by providers and shall inform the
18 department of subsequent reports received from the child abuse
19 index pursuant to Section 11170 of the Penal Code and the
20 criminal history. The department shall investigate any reports
21 received from the Child Abuse-Registry *Central Index*. The
22 investigation shall include, but not be limited to, the review of
23 the investigation report and file prepared by the child protective
24 agency which investigated the child abuse report. The department
25 shall not deny a license based upon a report from the Child
26 Abuse-Registry *Central Index* unless child abuse is substantiated.

27 SEC. 1.6. Section 11162.5 of the Health and Safety Code is
28 amended to read:

29 11162.5. (a) Every person who counterfeits a prescription
30 blank purporting to be an official prescription blank prepared and
31 issued pursuant to Section ~~11161~~ 11161.5, or knowingly
32 possesses more than three ~~such~~ counterfeited prescription blanks,
33 shall be punished by imprisonment in the state prison or by
34 imprisonment in the *a* county jail for not more than one year.

35 (b) Every person who knowingly possesses three or fewer
36 counterfeited prescription blanks purporting to be official
37 prescription blanks prepared and issued pursuant to Section
38 ~~11161~~ 11161.5, shall be guilty of a misdemeanor punishable by
39 imprisonment in the *a* county jail not exceeding six months, or

1 by a fine not exceeding one thousand dollars (\$1,000), or by
2 both.

3 SEC. 2. Section 121349.2 of the Health and Safety Code is
4 amended to read:

5 121349.2. Local government, local public health officials,
6 and law enforcement shall be given the opportunity to comment
7 on clean needle and syringe exchange programs on an annual
8 basis. The public shall be given the opportunity to provide input
9 to local leaders to ensure that any potential adverse impacts on
10 the public welfare of clean needle and syringe exchange
11 programs are addressed and mitigated.

12 SEC. 3. Section 121349.3 of the Health and Safety Code is
13 amended to read:

14 121349.3. The health officer of the participating jurisdiction
15 shall present annually at an open meeting of the board of
16 supervisors or city council a report detailing the status of clean
17 needle and syringe exchange programs including, but not limited
18 to, relevant statistics on blood-borne infections associated with
19 needle sharing activity. Law enforcement, administrators of
20 alcohol and drug treatment programs, other stakeholders, and the
21 public shall be afforded ample opportunity to comment at this
22 annual meeting. The notice to the public shall be sufficient to
23 assure adequate participation in the meeting by the public. This
24 meeting shall be noticed in accordance with all state and local
25 open meeting laws and ordinances, and as local officials deem
26 appropriate.

27 SEC. 4. Section 19.8 of the Penal Code is amended to read:

28 19.8. The following offenses are subject to subdivision (d) of
29 Section 17: Sections 193.8, 330, 415, 485, 555, 652, and 853.7 of
30 this code; subdivision (n) of Section 602 of this code; subdivision
31 (b) of Section 25658 and Sections 21672, 25658.5, 25661, and
32 25662 of the Business and Professions Code; Section 27204 of
33 the Government Code; subdivision (c) of Section 23109 and
34 Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the
35 Vehicle Code, and any other offense which the Legislature
36 makes subject to subdivision (d) of Section 17. Except where a
37 lesser maximum fine is expressly provided for a violation of any
38 of those sections, any violation which is an infraction is
39 punishable by a fine not exceeding two hundred fifty dollars
40 (\$250).

1 Except for the violations enumerated in subdivision (d) of
2 Section 13202.5 of the Vehicle Code, and Section 14601.1 of the
3 Vehicle Code based upon failure to appear, a conviction for any
4 offense made an infraction under subdivision (d) of Section 17 is
5 not grounds for the suspension, revocation, or denial of any
6 license, or for the revocation of probation or parole of the person
7 convicted.

8 This section shall become operative on January 1, 2005.

9 SEC. 5. Section 148.5 of the Penal Code is amended to read:

10 148.5. (a) Every person who reports to any peace officer
11 listed in Section 830.1 or 830.2, or subdivision (a) of Section
12 830.33, the Attorney General, or a deputy attorney general, or a
13 district attorney, or a deputy district attorney that a felony or
14 misdemeanor has been committed, knowing the report to be
15 false, is guilty of a misdemeanor.

16 (b) Every person who reports to any other peace officer, as
17 defined in Chapter 4.5 (commencing with Section 830) of Title 3
18 of Part 2, that a felony or misdemeanor has been committed,
19 knowing the report to be false, is guilty of a misdemeanor if (1)
20 the false information is given while the peace officer is engaged
21 in the performance of his or her duties as a peace officer and (2)
22 the person providing the false information knows or should have
23 known that the person receiving the information is a peace
24 officer.

25 (c) Except as provided in subdivisions (a) and (b), every
26 person who reports to any employee who is assigned to accept
27 reports from citizens, either directly or by telephone, and who is
28 employed by a state or local agency which is designated in
29 Section 830.1, 830.2, subdivision (e) of Section 830.3, Section
30 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, or
31 830.4, that a felony or misdemeanor has been committed,
32 knowing the report to be false, is guilty of a misdemeanor if (1)
33 the false information is given while the employee is engaged in
34 the performance of his or her duties as an agency employee and
35 (2) the person providing the false information knows or should
36 have known that the person receiving the information is an
37 agency employee engaged in the performance of the duties
38 described in this subdivision.

39 (d) Every person who makes a report to a grand jury that a
40 felony or misdemeanor has been committed, knowing the report

1 to be false, is guilty of a misdemeanor. This subdivision shall not
2 be construed as prohibiting or precluding a charge of perjury or
3 contempt for any report made under oath in an investigation or
4 proceeding before a grand jury.

5 (e) This section does not apply to reports made by persons
6 who are required by statute to report known or suspected
7 instances of child abuse, dependent adult abuse, or elder abuse.

8 SEC. 5.5. Section 186.22a of the Penal Code is amended to
9 read:

10 186.22a. (a) Every building or place used by members of a
11 criminal street gang for the purpose of the commission of the
12 offenses listed in subdivision (e) of Section 186.22 or any offense
13 involving dangerous or deadly weapons, burglary, or rape, and
14 every building or place wherein or upon which that criminal
15 conduct by gang members takes place, is a nuisance which shall
16 be enjoined, abated, and prevented, and for which damages may
17 be recovered, whether it is a public or private nuisance.

18 (b) Any action for injunction or abatement filed pursuant to
19 subdivision (a), including an action filed by the Attorney
20 General, shall proceed according to the provisions of Article 3
21 (commencing with Section 11570) of Chapter 10 of Division 10
22 of the Health and Safety Code, except that all of the following
23 shall apply:

24 (1) The court shall not assess a civil penalty against any
25 person unless that person knew or should have known of the
26 unlawful acts.

27 (2) No order of eviction or closure may be entered.

28 (3) All injunctions issued shall be limited to those necessary to
29 protect the health and safety of the residents or the public or
30 those necessary to prevent further criminal activity.

31 (4) Suit may not be filed until 30-day notice of the unlawful
32 use or criminal conduct has been provided to the owner by mail,
33 return receipt requested, postage prepaid, to the last known
34 address.

35 (c) Whenever an injunction is issued pursuant to subdivision
36 (a), or Section 3479 of the Civil Code, to abate gang activity
37 constituting a nuisance, the Attorney General may maintain an
38 action for money damages on behalf of the community or
39 neighborhood injured by that nuisance. Any money damages
40 awarded shall be paid by or collected from assets of the criminal

1 street gang or its members that were derived from the criminal
2 activity being abated or enjoined. Only persons who knew or
3 should have known of the unlawful acts shall be personally liable
4 for the payment of the damages awarded. In a civil action for
5 damages brought pursuant to this subdivision, the Attorney
6 General may use, but is not limited to the use of, the testimony of
7 experts to establish damages suffered by the community or
8 neighborhood injured by the nuisance. The damages recovered
9 pursuant to this subdivision shall be deposited into a separate
10 segregated fund for payment to the governing body of the city or
11 county in whose political subdivision the community or
12 neighborhood is located, and that governing body shall use those
13 assets solely for the benefit of the community or neighborhood
14 that has been injured by the nuisance.

15 (d) No nonprofit or charitable organization which is
16 conducting its affairs with ordinary care or skill, and no
17 governmental entity, shall be abated pursuant to subdivisions (a)
18 and (b).

19 (e) Nothing in this chapter shall preclude any aggrieved person
20 from seeking any other remedy provided by law.

21 (f) (1) Any firearm, ammunition which may be used with the
22 firearm, or any deadly or dangerous weapon which is owned or
23 possessed by a member of a criminal street gang for the purpose
24 of the commission of any of the offenses listed in subdivision (e)
25 of Section 186.22, or the commission of any burglary or rape,
26 may be confiscated by any law enforcement agency or peace
27 officer.

28 (2) In those cases where a law enforcement agency believes
29 that the return of the firearm, ammunition, or deadly weapon
30 confiscated pursuant to this subdivision, is or will be used in
31 criminal street gang activity or that the return of the item would
32 be likely to result in endangering the safety of others, the law
33 enforcement agency shall initiate a petition in the superior court
34 to determine if the item confiscated should be returned or
35 declared a nuisance.

36 (3) No firearm, ammunition, or deadly weapon shall be sold or
37 destroyed unless reasonable notice is given to its lawful owner if
38 his or her identity and address can be reasonably ascertained. The
39 law enforcement agency shall inform the lawful owner, at that
40 person's last known address by registered mail, that he or she has

1 30 days from the date of receipt of the notice to respond to the
2 court clerk to confirm his or her desire for a hearing and that the
3 failure to respond shall result in a default order forfeiting the
4 confiscated firearm, ammunition, or deadly weapon as a
5 nuisance.

6 (4) If the person requests a hearing, the court clerk shall set a
7 hearing no later than 30 days from receipt of that request. The
8 court clerk shall notify the person, the law enforcement agency
9 involved, and the district attorney of the date, time, and place of
10 the hearing.

11 (5) At the hearing, the burden of proof is upon the law
12 enforcement agency or peace officer to show by a preponderance
13 of the evidence that the seized item is or will be used in criminal
14 street gang activity or that return of the item would be likely to
15 result in endangering the safety of others. All returns of firearms
16 shall be subject to Section 12021.3.

17 (6) If the person does not request a hearing within 30 days of
18 the notice or the lawful owner cannot be ascertained, the law
19 enforcement agency may file a petition that the confiscated
20 firearm, ammunition, or deadly weapon be declared a nuisance.
21 If the items are declared to be a nuisance, the law enforcement
22 agency shall dispose of the items as provided in Section 12028.

23 SEC. 6. Section 538e of the Penal Code is amended to read:

24 538e. (a) Any person, other than an officer or member of a
25 fire department, who willfully wears, exhibits, or uses the
26 authorized uniform, insignia, emblem, device, label, certificate,
27 card, or writing of an officer or member of a fire department or a
28 deputy state fire marshal, with the intent of fraudulently
29 impersonating an officer or member of a fire department or the
30 Office of the State Fire Marshal, or of fraudulently inducing the
31 belief that he or she is an officer or member of a fire department
32 or the Office of the State Fire Marshal, is guilty of a
33 misdemeanor.

34 (b) (1) Any person, other than the one who by law is given the
35 authority of an officer or member of a fire department, or a
36 deputy state fire marshal, who willfully wears, exhibits, or uses
37 the badge of a fire department or the Office of the State Fire
38 Marshal with the intent of fraudulently impersonating an officer,
39 or member of a fire department, or a deputy state fire marshal, or
40 of fraudulently inducing the belief that he or she is an officer or

1 member of a fire department, or a deputy state fire marshal, is
2 guilty of a misdemeanor punishable by imprisonment in a county
3 jail not to exceed one year, by a fine not to exceed two thousand
4 dollars (\$2,000), or by both that imprisonment and fine.

5 (2) Any person who willfully wears or uses any badge that
6 falsely purports to be authorized for the use of one who by law is
7 given the authority of an officer or member of a fire department,
8 or a deputy state fire marshal, or which so resembles the
9 authorized badge of an officer or member of a fire department, or
10 a deputy state fire marshal as would deceive any ordinary
11 reasonable person into believing that it is authorized for the use
12 of one who by law is given the authority of an officer or member
13 of a fire department or a deputy state fire marshal, for the
14 purpose of fraudulently impersonating an officer or member of a
15 fire department, or a deputy state fire marshal, or of fraudulently
16 inducing the belief that he or she is an officer or member of a fire
17 department, or a deputy state fire marshal, is guilty of a
18 misdemeanor punishable by imprisonment in a county jail not to
19 exceed one year, by a fine not to exceed two thousand dollars
20 (\$2,000), or by both that imprisonment and fine.

21 (c) Any person who willfully wears, exhibits, or uses, or who
22 willfully makes, sells, loans, gives, or transfers to another, any
23 badge, insignia, emblem, device, or any label, certificate, card, or
24 writing, which falsely purports to be authorized for the use of one
25 who by law is given the authority of an officer, or member of a
26 fire department or a deputy state fire marshal, or which so
27 resembles the authorized badge, insignia, emblem, device, label,
28 certificate, card, or writing of an officer or member of a fire
29 department or a deputy state fire marshal as would deceive an
30 ordinary reasonable person into believing that it is authorized for
31 use by an officer or member of a fire department or a deputy state
32 fire marshal, is guilty of a misdemeanor, except that any person
33 who makes or sells any badge under the circumstances described
34 in this subdivision is guilty of a misdemeanor punishable by a
35 fine not to exceed fifteen thousand dollars (\$15,000).

36 (d) Any person who, for the purpose of selling, leasing or
37 otherwise disposing of merchandise, supplies or equipment used
38 in fire prevention or suppression, falsely represents, in any
39 manner whatsoever, to any other person that he or she is a fire
40 marshal, fire inspector or member of a fire department, or that he

1 or she has the approval, endorsement or authorization of any fire
2 marshal, fire inspector or fire department, or member thereof, is
3 guilty of a misdemeanor.

4 (e) This section shall not apply to either of the following:

5 (1) Use of a badge solely as a prop for a motion picture,
6 television, or video production, or an entertainment or theatrical
7 event.

8 (2) A badge supplied by a recognized employee organization
9 as defined in Section 3501 of the Government Code representing
10 firefighters or a state or international organization to which it is
11 affiliated.

12 *SEC. 6.1. Section 646.91A of the Penal Code is amended and*
13 *renumbered to read:*

14 ~~646.91A.~~

15 *646.91a.* (a) The court shall order that any party enjoined
16 pursuant to Section 646.91 be prohibited from taking any action
17 to obtain the address or location of a protected party or a
18 protected party's family members, caretakers, or guardian, unless
19 there is good cause not to make that order.

20 (b) The Judicial Council shall promulgate forms necessary to
21 effectuate this section.

22 SEC. 7. Section 666.7 of the Penal Code is repealed.

23 SEC. 8. Section 667.7 of the Penal Code is amended to read:

24 667.7. (a) Any person convicted of a felony in which the
25 person inflicted great bodily injury as provided in Section
26 12022.53 or 12022.7, or personally used force which was likely
27 to produce great bodily injury, who has served two or more prior
28 separate prison terms as defined in Section 667.5 for the crime of
29 murder; attempted murder; voluntary manslaughter; mayhem;
30 rape by force, violence, or fear of immediate and unlawful bodily
31 injury on the victim or another person; oral copulation by force,
32 violence, duress, menace, or fear of immediate and unlawful
33 bodily injury on the victim or another person; sodomy by force,
34 violence, duress, menace, or fear of immediate and unlawful
35 bodily injury on the victim or another person; lewd acts on a
36 child under the age of 14 years by use of force, violence, duress,
37 menace, or fear of immediate and unlawful bodily injury on the
38 victim or another person; a violation of subdivision (a) of Section
39 289 where the act is accomplished against the victim's will by
40 means of force, violence, duress, menace, or fear of immediate

1 and unlawful bodily injury on the victim or another person;
2 kidnapping as punished in former subdivision (d) of Section 208,
3 or for ransom, extortion, or robbery; robbery involving the use of
4 force or a deadly weapon; carjacking involving the use of a
5 deadly weapon; assault with intent to commit murder; assault
6 with a deadly weapon; assault with a force likely to produce great
7 bodily injury; assault with intent to commit rape, sodomy, oral
8 copulation, sexual penetration in violation of Section 289, or
9 lewd and lascivious acts on a child; arson of a structure; escape
10 or attempted escape by an inmate with force or violence in
11 violation of subdivision (a) of Section 4530, or of Section 4532;
12 exploding a destructive device with intent to murder in violation
13 of Section 12308; exploding a destructive device which causes
14 bodily injury in violation of Section 12309, or mayhem or great
15 bodily injury in violation of Section 12310; exploding a
16 destructive device with intent to injure, intimidate, or terrify, in
17 violation of Section 12303.3; any felony in which the person
18 inflicted great bodily injury as provided in Section 12022.53 or
19 12022.7; or any felony punishable by death or life imprisonment
20 with or without the possibility of parole is a habitual offender and
21 shall be punished as follows:

22 (1) A person who served two prior separate prison terms shall
23 be punished by imprisonment in the state prison for life and shall
24 not be eligible for release on parole for 20 years, or the term
25 determined by the court pursuant to Section 1170 for the
26 underlying conviction, including any enhancement applicable
27 under Chapter 4.5 (commencing with Section 1170) of Title 7 of
28 Part 2, or any period prescribed by Section 190 or 3046,
29 whichever is greatest. Article 2.5 (commencing with Section
30 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any
31 minimum term in a state prison imposed pursuant to this section,
32 but the person shall not otherwise be released on parole prior to
33 that time.

34 (2) Any person convicted of a felony specified in this
35 subdivision who has served three or more prior separate prison
36 terms, as defined in Section 667.5, for the crimes specified in
37 subdivision (a) of this section shall be punished by imprisonment
38 in the state prison for life without the possibility of parole.

39 (b) This section shall not prevent the imposition of the
40 punishment of death or imprisonment for life without the

1 possibility of parole. No prior prison term shall be used for this
2 determination which was served prior to a period of 10 years in
3 which the person remained free of both prison custody and the
4 commission of an offense which results in a felony conviction.
5 As used in this section, a commitment to the Department of the
6 Youth Authority after conviction for a felony shall constitute a
7 prior prison term. The term imposed under this section shall be
8 imposed only if the prior prison terms are alleged under this
9 section in the accusatory pleading, and either admitted by the
10 defendant in open court, or found to be true by the jury trying the
11 issue of guilt or by the court where guilt is established by a plea
12 of guilty or nolo contendere or by a trial by the court sitting
13 without a jury.

14 *SEC. 8.1. Section 804 of the Penal Code is amended to read:*

15 804. ~~For~~ Except as otherwise provided in this chapter, for the
16 purpose of this chapter, prosecution for an offense is commenced
17 when any of the following occurs:

- 18 (a) An indictment or information is filed.
- 19 (b) A complaint is filed charging a misdemeanor or infraction.
- 20 (c) A case is certified to the superior court.
- 21 (d) An arrest warrant or bench warrant is issued, provided the
22 warrant names or describes the defendant with the same degree
23 of particularity required for an indictment, information, or
24 complaint.

25 *SEC. 8.2. Section 851.8 of the Penal Code is amended to*
26 *read:*

27 851.8. (a) In any case where a person has been arrested and
28 no accusatory pleading has been filed, the person arrested may
29 petition the law enforcement agency having jurisdiction over the
30 offense to destroy its records of the arrest. A copy of such
31 petition shall be served upon the ~~district~~ prosecuting attorney of
32 the county *or city* having jurisdiction over the offense. The law
33 enforcement agency having jurisdiction over the offense, upon a
34 determination that the person arrested is factually innocent, shall,
35 with the concurrence of the ~~district~~ prosecuting attorney, seal its
36 arrest records, and the petition for relief under this section for
37 three years from the date of the arrest and thereafter destroy its
38 arrest records and the petition. The law enforcement agency
39 having jurisdiction over the offense shall notify the Department
40 of Justice, and any law enforcement agency which arrested the

1 petitioner or participated in the arrest of the petitioner for an
2 offense for which the petitioner has been found factually
3 innocent under this subdivision, of the sealing of the arrest
4 records and the reason therefor. The Department of Justice and
5 any law enforcement agency so notified shall forthwith seal their
6 records of the arrest and the notice of sealing for three years from
7 the date of the arrest, and thereafter destroy their records of the
8 arrest and the notice of sealing. The law enforcement agency
9 having jurisdiction over the offense and the Department of
10 Justice shall request the destruction of any records of the arrest
11 which they have given to any local, state, or federal agency or to
12 any other person or entity. Each such agency, person, or entity
13 within the State of California receiving such a request shall
14 destroy its records of the arrest and such request, unless
15 otherwise provided in this section.

16 (b) If, after receipt by both the law enforcement agency and
17 the ~~district~~ *prosecuting* attorney of a petition for relief under
18 subdivision (a), the law enforcement agency and ~~district~~
19 *prosecuting* attorney do not respond to the petition by accepting
20 or denying such petition within 60 days after the running of the
21 relevant statute of limitations or within 60 days after receipt of
22 the petition in cases where the statute of limitations has
23 previously lapsed, then the petition shall be deemed to be denied.
24 In any case where the petition of an arrestee to the law
25 enforcement agency to have an arrest record destroyed is denied,
26 petition may be made to the superior court which would have had
27 territorial jurisdiction over the matter. A copy of such petition
28 shall be served on the ~~district~~ *prosecuting* attorney of the county
29 *or city* having jurisdiction over the offense at least 10 days prior
30 to the hearing thereon. The ~~district~~ *prosecuting* attorney may
31 present evidence to the court at such hearing. Notwithstanding
32 Section 1538.5 or 1539, any judicial determination of factual
33 innocence made pursuant to this section may be heard and
34 determined upon declarations, affidavits, police reports, or any
35 other evidence submitted by the parties which is material,
36 relevant and reliable. A finding of factual innocence and an order
37 for the sealing and destruction of records pursuant to this section
38 shall not be made unless the court finds that no reasonable cause
39 exists to believe that the arrestee committed the offense for
40 which the arrest was made. In any court hearing to determine the

1 factual innocence of a party, the initial burden of proof shall rest
2 with the petitioner to show that no reasonable cause exists to
3 believe that the arrestee committed the offense for which the
4 arrest was made. If the court finds that this showing of no
5 reasonable cause has been made by the petitioner, then the
6 burden of proof shall shift to the respondent to show that a
7 reasonable cause exists to believe that the petitioner committed
8 the offense for which the arrest was made. If the court finds the
9 arrestee to be factually innocent of the charges for which the
10 arrest was made, then the court shall order the law enforcement
11 agency having jurisdiction over the offense, the Department of
12 Justice, and any law enforcement agency which arrested the
13 petitioner or participated in the arrest of the petitioner for an
14 offense for which the petitioner has been found factually
15 innocent under this section to seal their records of the arrest and
16 the court order to seal and destroy such records, for three years
17 from the date of the arrest and thereafter to destroy their records
18 of the arrest and the court order to seal and destroy such records.
19 The court shall also order the law enforcement agency having
20 jurisdiction over the offense and the Department of Justice to
21 request the destruction of any records of the arrest which they
22 have given to any local, state, or federal agency, person or entity.
23 Each state or local agency, person or entity within the State of
24 California receiving such a request shall destroy its records of the
25 arrest and the request to destroy such records, unless otherwise
26 provided in this section. The court shall give to the petitioner a
27 copy of any court order concerning the destruction of the arrest
28 records.

29 (c) In any case where a person has been arrested, and an
30 accusatory pleading has been filed, but where no conviction has
31 occurred, the defendant may, at any time after dismissal of the
32 action, petition the court which dismissed the action for a finding
33 that the defendant is factually innocent of the charges for which
34 the arrest was made. A copy of such petition shall be served on
35 the ~~district~~ *prosecuting* attorney of the county *or city* in which the
36 accusatory pleading was filed at least 10 days prior to the hearing
37 on the petitioner's factual innocence. The ~~district~~ *prosecuting*
38 attorney may present evidence to the court at such hearing. Such
39 hearing shall be conducted as provided in subdivision (b). If the
40 court finds the petitioner to be factually innocent of the charges

1 for which the arrest was made, then the court shall grant the relief
2 as provided in subdivision (b).

3 (d) In any case where a person has been arrested and an
4 accusatory pleading has been filed, but where no conviction has
5 occurred, the court may, with the concurrence of the ~~district~~
6 *prosecuting* attorney, grant the relief provided in subdivision (b)
7 at the time of the dismissal of the accusatory pleading.

8 (e) Whenever any person is acquitted of a charge and it
9 appears to the judge presiding at the trial wherein such acquittal
10 occurred that the defendant was factually innocent of such
11 charge, the judge may grant the relief provided in subdivision
12 (b).

13 (f) In any case where a person who has been arrested is
14 granted relief pursuant to subdivision (a) or (b), the law
15 enforcement agency having jurisdiction over the offense or court
16 shall issue a written declaration to the arrestee stating that it is
17 the determination of the law enforcement agency having
18 jurisdiction over the offense or court that the arrestee is factually
19 innocent of the charges for which the person was arrested and
20 that the arrestee is thereby exonerated. Thereafter, the arrest shall
21 be deemed not to have occurred and the person may answer
22 accordingly any question relating to its occurrence.

23 (g) The Department of Justice shall furnish forms to be
24 utilized by persons applying for the destruction of their arrest
25 records and for the written declaration that one person was found
26 factually innocent under subdivisions (a) and (b).

27 (h) Documentation of arrest records destroyed pursuant to
28 subdivision (a), (b), (c), (d), or (e) which are contained in
29 investigative police reports shall bear the notation "Exonerated"
30 whenever reference is made to the arrestee. The arrestee shall be
31 notified in writing by the law enforcement agency having
32 jurisdiction over the offense of the sealing and destruction of the
33 arrest records pursuant to this section.

34 (i) Any finding that an arrestee is factually innocent pursuant
35 to subdivision (a), (b), (c), (d), or (e) shall not be admissible as
36 evidence in any action.

37 (j) Destruction of records of arrest pursuant to subdivision (a),
38 (b), (c), (d), or (e) shall be accomplished by permanent
39 obliteration of all entries or notations upon such records
40 pertaining to the arrest, and the record shall be prepared again so

1 that it appears that the arrest never occurred. However, where (1)
2 the only entries on the record pertain to the arrest and (2) the
3 record can be destroyed without necessarily effecting the
4 destruction of other records, then the document constituting the
5 record shall be physically destroyed.

6 (k) No records shall be destroyed pursuant to subdivision (a),
7 (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil
8 action against the peace officers or law enforcement jurisdiction
9 which made the arrest or instituted the prosecution and if the
10 agency which is the custodian of such records has received a
11 certified copy of the complaint in such civil action, until the civil
12 action has been resolved. Any records sealed pursuant to this
13 section by the court in the civil actions, upon a showing of good
14 cause, may be opened and submitted into evidence. The records
15 shall be confidential and shall be available for inspection only by
16 the court, jury, parties, counsel for the parties and any other
17 person authorized by the court. Immediately following the final
18 resolution of the civil action, records subject to subdivision (a),
19 (b), (c), (d), or (e) shall be sealed and destroyed pursuant to
20 subdivision (a), (b), (c), (d), or (e).

21 (l) For arrests occurring on or after January 1, 1981, and for
22 accusatory pleadings filed on or after January 1, 1981, petitions
23 for relief under this section may be filed up to two years from the
24 date of the arrest or filing of the accusatory pleading, whichever
25 is later. Until January 1, 1983, petitioners can file for relief under
26 this section for arrests which occurred or accusatory pleadings
27 which were filed up to five years prior to the effective date of the
28 statute. Any time restrictions on filing for relief under this section
29 may be waived upon a showing of good cause by the petitioner
30 and in the absence of prejudice.

31 (m) Any relief which is available to a petitioner under this
32 section for an arrest shall also be available for an arrest which
33 has been deemed to be or described as a detention under Section
34 849.5 or 851.6.

35 (n) The provisions of this section shall not apply to any
36 offense which is classified as an infraction.

37 (o) (1) The provisions of this section shall be repealed on the
38 effective date of a final judgment based on a claim under the
39 California or United States Constitution holding that evidence
40 which is relevant, reliable, and material may not be considered

1 for purposes of a judicial determination of factual innocence
2 under this section. For purposes of this subdivision, a judgment
3 by the appellate division of a superior court is a final judgment if
4 it is published and if it is not reviewed on appeal by a court of
5 appeal. A judgment of a court of appeal is a final judgment if it is
6 published and if it is not reviewed by the California Supreme
7 Court.

8 (2) Any such decision referred to in this subdivision shall be
9 stayed pending appeal.

10 (3) If not otherwise appealed by a party to the action, any such
11 decision referred to in this subdivision which is a judgment by
12 the appellate division of the superior court shall be appealed by
13 the Attorney General.

14 (p) A judgment of the court under subdivision (b), (c), (d), or
15 (e) is subject to the following appeal path:

16 (1) In a felony case, appeal is to the court of appeal.

17 (2) In a misdemeanor case, or in a case in which no accusatory
18 pleading was filed, appeal is to the appellate division of the
19 superior court.

20 SEC. 8.5. Section 3041.7 of the Penal Code is amended to
21 read:

22 3041.7. At any hearing for the purpose of setting, postponing,
23 or rescinding a parole release date of a prisoner under a life
24 sentence, the prisoner shall be entitled to be represented by
25 counsel and the provisions of Section 3041.5 shall apply. The
26 Board of Parole Hearings shall provide by rule for the invitation
27 of the prosecutor of the county from which the prisoner was
28 committed, or his representative, to represent the interests of the
29 people at the hearing. The Board of Parole Hearings shall notify
30 the prosecutor and the Attorney General at least 30 days prior to
31 the date of the hearing.

32 Notwithstanding Section 12550 of the Government Code, the
33 prosecutor of the county from which the prisoner was committed,
34 or his representative, who shall not be the Attorney General,
35 except in cases in which the Attorney General prosecuted the
36 case at the trial level, shall be the sole representative of the
37 interests of the people.

38 SEC. 8.6. Section 6044 of the Penal Code is amended to
39 read:

6044. (a) The Council on Mentally Ill Offenders is hereby established within the ~~Youth and Adult Correctional Agency~~ *Department of Corrections and Rehabilitation*. The council shall be composed of 11 members, one of whom shall be the Secretary of the ~~Youth and Adult Correctional Agency~~ *department* who shall be designated as the chairperson, one of whom shall be the Director of Mental Health, and nine of whom shall be appointed. The Governor shall appoint three members, at least one of whom shall represent mental health. The Senate Rules Committee shall appoint two members, one representing law enforcement and one representing mental health. The Speaker of the Assembly shall appoint two members, one representing law enforcement and one representing mental health. The Attorney General shall appoint one member. The Chief Justice of the California Supreme Court shall appoint one member who shall be a superior court judge.

(b) The council shall select a vice chairperson from among its members. Six members of the council shall constitute a quorum.

(c) The Director of Mental Health shall serve as the liaison ~~with~~ *to* the Health and Human Services Agency and any departments within that agency necessary to further the purposes of this article.

(d) Members of the council shall receive no compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his or her state or local government employment.

(e) The goal of the council shall be to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who are likely to become offenders or who have a history of offending. The council shall:

(1) Identify strategies for preventing adults and juveniles with mental health needs from becoming offenders.

(2) Identify strategies for improving the cost-effectiveness of services for adults and juveniles with mental health needs who have a history of offending.

(3) Identify incentives to encourage state and local criminal justice, juvenile justice, and mental health programs to adopt cost-effective approaches for serving adults and juveniles with

1 mental health needs who are likely to offend or who have a
2 history of offending.

3 (f) The council shall consider strategies that:

4 (1) Improve service coordination among state and local mental
5 health, criminal justice, and juvenile justice programs.

6 (2) Improve the ability of adult and juvenile offenders with
7 mental health needs to transition successfully between
8 corrections-based, juvenile justice-based, and community-based
9 treatment programs.

10 (g) The Secretary of the ~~Youth and Adult Correctional Agency~~
11 *Department of Corrections and Rehabilitation* and the Director
12 of Mental Health may furnish for the use of the council those
13 facilities, supplies, and personnel as may be available therefor.
14 The council may secure the assistance of any state agency,
15 department, or instrumentality in the course of its work.

16 (h) (1) The Council on Mentally Ill Offenders shall file with
17 the Legislature, not later than December 31 of each year, a report
18 that shall provide details of the council's activities during the
19 preceding year. The report shall include recommendations for
20 improving the cost-effectiveness of mental health and criminal
21 justice programs.

22 (2) After the first year of operation, the council may
23 recommend to the Legislature and Governor modifications to its
24 jurisdiction, composition, and membership that will further the
25 purposes of this article.

26 (i) The Council on Mentally Ill Offenders is authorized to
27 apply for any funds that may be available from the federal
28 government or other sources to further the purposes of this
29 article.

30 (j) (1) For purposes of this article, the council shall address
31 the needs of adults and juveniles who meet the following criteria:
32 persons who have been arrested, detained, incarcerated, or are at
33 a significant risk of being arrested, detained, or incarcerated, and
34 who have a mental disorder as defined in Section 1830.205 of
35 Title 9 of the California Code of Regulations.

36 (2) The council may expand its purview to allow it to identify
37 strategies that are preventive in nature and could be directed to
38 identifiable categories of adults and juveniles that fall outside of
39 the above definitions.

~~(k) This article shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.~~

SEC. 9. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b) (1) Except as provided in subdivision (d), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not handguns, from forms submitted pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or from dealers' records of sales for firearms that are not handguns. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or of the dealers' records of sales for firearms that are not handguns shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not handguns shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and former Section 12084 or any other law, as to handguns and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular handgun as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular handgun and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular handgun acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular handgun.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(d) (1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or 12285, if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

1 (C) Whenever a law enforcement officer disseminates the
2 information authorized by this subdivision, that officer or another
3 officer assigned to the case shall immediately provide the victim
4 of the crime with a “Victims of Domestic Violence” card, as
5 specified in subparagraph (H) of paragraph (9) of subdivision (c)
6 of Section 13701.

7 (2) The victim or person to whom information is disseminated
8 pursuant to this subdivision may disclose it as he or she deems
9 necessary to protect himself or herself or another person from
10 bodily harm by the person who is the subject of the record.

11 SEC. 9.5. Section 11165.7 of the Penal Code is amended to
12 read:

13 11165.7. (a) As used in this article, “mandated reporter” is
14 defined as any of the following:

15 (1) A teacher.

16 (2) An instructional aide.

17 (3) A teacher’s aide or teacher’s assistant employed by any
18 public or private school.

19 (4) A classified employee of any public school.

20 (5) An administrative officer or supervisor of child welfare
21 and attendance, or a certificated pupil personnel employee of any
22 public or private school.

23 (6) An administrator of a public or private day camp.

24 (7) An administrator or employee of a public or private youth
25 center, youth recreation program, or youth organization.

26 (8) An administrator or employee of a public or private
27 organization whose duties require direct contact and supervision
28 of children.

29 (9) Any employee of a county office of education or the
30 California Department of Education, whose duties bring the
31 employee into contact with children on a regular basis.

32 (10) A licensee, an administrator, or an employee of a licensed
33 community care or child day care facility.

34 (11) A Head Start program teacher.

35 (12) A licensing worker or licensing evaluator employed by a
36 licensing agency as defined in Section 11165.11.

37 (13) A public assistance worker.

38 (14) An employee of a child care institution, including, but not
39 limited to, foster parents, group home personnel, and personnel
40 of residential care facilities.

1 (15) A social worker, probation officer, or parole officer.

2 (16) An employee of a school district police or security
3 department.

4 (17) Any person who is an administrator or presenter of, or a
5 counselor in, a child abuse prevention program in any public or
6 private school.

7 (18) A district attorney investigator, inspector, or local child
8 support agency caseworker unless the investigator, inspector, or
9 caseworker is working with an attorney appointed pursuant to
10 Section 317 of the Welfare and Institutions Code to represent a
11 minor.

12 (19) A peace officer, as defined in Chapter 4.5 (commencing
13 with Section 830) of Title 3 of Part 2, who is not otherwise
14 described in this section.

15 (20) A firefighter, except for volunteer firefighters.

16 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
17 resident, intern, podiatrist, chiropractor, licensed nurse, dental
18 hygienist, optometrist, marriage, family and child counselor,
19 clinical social worker, or any other person who is currently
20 licensed under Division 2 (commencing with Section 500) of the
21 Business and Professions Code.

22 (22) Any emergency medical technician I or II, paramedic, or
23 other person certified pursuant to Division 2.5 (commencing with
24 Section 1797) of the Health and Safety Code.

25 (23) A psychological assistant registered pursuant to Section
26 2913 of the Business and Professions Code.

27 (24) A marriage, family, and child therapist trainee, as defined
28 in subdivision (c) of Section 4980.03 of the Business and
29 Professions Code.

30 (25) An unlicensed marriage, family, and child therapist intern
31 registered under Section 4980.44 of the Business and Professions
32 Code.

33 (26) A state or county public health employee who treats a
34 minor for venereal disease or any other condition.

35 (27) A coroner.

36 (28) A medical examiner, or any other person who performs
37 autopsies.

38 (29) A commercial film and photographic print processor, as
39 specified in subdivision (e) of Section 11166. As used in this
40 article, “commercial film and photographic print processor”

1 means any person who develops exposed photographic film into
2 negatives, slides, or prints, or who makes prints from negatives
3 or slides, for compensation. The term includes any employee of
4 such a person; it does not include a person who develops film or
5 makes prints for a public agency.

6 (30) A child visitation monitor. As used in this article, “child
7 visitation monitor” means any person who, for financial
8 compensation, acts as monitor of a visit between a child and any
9 other person when the monitoring of that visit has been ordered
10 by a court of law.

11 (31) An animal control officer or humane society officer. For
12 the purposes of this article, the following terms have the
13 following meanings:

14 (A) “Animal control officer” means any person employed by a
15 city, county, or city and county for the purpose of enforcing
16 animal control laws or regulations.

17 (B) “Humane society officer” means any person appointed or
18 employed by a public or private entity as a humane officer who is
19 qualified pursuant to Section 14502 or 14503 of the Corporations
20 Code.

21 (32) A clergy member, as specified in subdivision (d) of
22 Section 11166. As used in this article, “clergy member” means a
23 priest, minister, rabbi, religious practitioner, or similar
24 functionary of a church, temple, or recognized denomination or
25 organization.

26 (33) Any custodian of records of a clergy member, as
27 specified in this section and subdivision (d) of Section 11166.

28 (34) Any employee of any police department, county sheriff’s
29 department, county probation department, or county welfare
30 department.

31 (35) An employee or volunteer of a Court Appointed Special
32 Advocate program, as defined in Rule 1424 of the California
33 Rules of Court.

34 (36) A custodial officer as defined in Section 831.5.

35 (37) Any person providing services to a minor child under
36 Section 12300 or 12300.1 of the Welfare and Institutions Code.

37 (b) Except as provided in paragraph (35) of subdivision (a),
38 volunteers of public or private organizations whose duties require
39 direct contact with and supervision of children are not mandated
40 reporters but are encouraged to obtain training in the

1 identification and reporting of child abuse and neglect and are
2 further encouraged to report known or suspected instances of
3 child abuse or neglect to an agency specified in Section 11165.9.

4 (c) Employers are strongly encouraged to provide their
5 employees who are mandated reporters with training in the duties
6 imposed by this article. This training shall include training in
7 child abuse and neglect identification and training in child abuse
8 and neglect reporting. Whether or not employers provide their
9 employees with training in child abuse and neglect identification
10 and reporting, the employers shall provide their employees who
11 are mandated reporters with the statement required pursuant to
12 subdivision (a) of Section 11166.5.

13 (d) School districts that do not train their employees specified
14 in subdivision (a) in the duties of mandated reporters under the
15 child abuse reporting laws shall report to the State Department of
16 Education the reasons why this training is not provided.

17 (e) Unless otherwise specifically provided, the absence of
18 training shall not excuse a mandated reporter from the duties
19 imposed by this article.

20 (f) Public and private organizations are encouraged to provide
21 their volunteers whose duties require direct contact with and
22 supervision of children with training in the identification and
23 reporting of child abuse and neglect.

24 SEC. 10. Section 11166.01 of the Penal Code is amended to
25 read:

26 11166.01. (a) Except as provided in subdivision (b), any
27 supervisor or administrator who violates paragraph (1) of
28 subdivision (i) of Section 11166 shall be punished by not more
29 than six months in a county jail, by a fine of not more than one
30 thousand dollars (\$1,000), or by both that fine and imprisonment.

31 (b) Notwithstanding Section 11162 or subdivision (c) of
32 Section 11166, any mandated reporter who willfully fails to
33 report abuse or neglect, or any person who impedes or inhibits a
34 report of abuse or neglect, in violation of this article, where that
35 abuse or neglect results in death or great bodily injury, shall be
36 punished by not more than one year in a county jail, by a fine of
37 not more than five thousand dollars (\$5,000), or by both that fine
38 and imprisonment.

39 SEC. 10.5. Section 11167 of the Penal Code is amended to
40 read:

1 11167. (a) Reports of suspected child abuse or neglect
2 pursuant to Section 11166 shall include the name, business
3 address, and telephone number of the mandated reporter; the
4 capacity that makes the person a mandated reporter; and the
5 information that gave rise to the reasonable suspicion of child
6 abuse or neglect and the source or sources of that information. If
7 a report is made, the following information, if known, shall also
8 be included in the report: the child's name, the child's address,
9 present location, and, if applicable, school, grade, and class; the
10 names, addresses, and telephone numbers of the child's parents
11 or guardians; and the name, address, telephone number, and other
12 relevant personal information about the person or persons who
13 might have abused or neglected the child. The mandated reporter
14 shall make a report even if some of this information is not known
15 or is uncertain to him or her.

16 (b) Information relevant to the incident of child abuse or
17 neglect may be given to an investigator from an agency that is
18 investigating the known or suspected case of child abuse or
19 neglect.

20 (c) Information relevant to the incident of child abuse or
21 neglect, including the investigation report and other pertinent
22 materials, may be given to the licensing agency when it is
23 investigating a known or suspected case of child abuse or
24 neglect.

25 (d) (1) The identity of all persons who report under this article
26 shall be confidential and disclosed only among agencies
27 receiving or investigating mandated reports, to the prosecutor in
28 a criminal prosecution or in an action initiated under Section 602
29 of the Welfare and Institutions Code arising from alleged child
30 abuse, or to counsel appointed pursuant to subdivision (c) of
31 Section 317 of the Welfare and Institutions Code, or to the
32 county counsel or prosecutor in a proceeding under Part 4
33 (commencing with Section 7800) of Division 12 of the Family
34 Code or Section 300 of the Welfare and Institutions Code, or to a
35 licensing agency when abuse or neglect in out-of-home care is
36 reasonably suspected, or when those persons waive
37 confidentiality, or by court order.

38 (2) No agency or person listed in this subdivision shall
39 disclose the identity of any person who reports under this article

1 to that person's employer, except with the employee's consent or
2 by court order.

3 (e) Notwithstanding the confidentiality requirements of this
4 section, a representative of a child protective services agency
5 performing an investigation that results from a report of
6 suspected child abuse or neglect made pursuant to Section 11166,
7 at the time of the initial contact with the individual who is subject
8 to the investigation, shall advise the individual of the complaints
9 or allegations against him or her, in a manner that is consistent
10 with laws protecting the identity of the reporter under this article.

11 (f) Persons who may report pursuant to subdivision (g) of
12 Section 11166 are not required to include their names.

13 SEC. 11. Section 12001 of the Penal Code is amended to
14 read:

15 12001. (a) (1) As used in this title, the terms "pistol,"
16 "revolver," and "firearm capable of being concealed upon the
17 person" shall apply to and include any device designed to be used
18 as a weapon, from which is expelled a projectile by the force of
19 any explosion, or other form of combustion, and that has a barrel
20 less than 16 inches in length. These terms also include any device
21 that has a barrel 16 inches or more in length which is designed to
22 be interchanged with a barrel less than 16 inches in length.

23 (2) As used in this title, the term "handgun" means any
24 "pistol," "revolver," or "firearm capable of being concealed upon
25 the person."

26 (b) As used in this title, "firearm" means any device, designed
27 to be used as a weapon, from which is expelled through a barrel,
28 a projectile by the force of any explosion or other form of
29 combustion.

30 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
31 12073, 12078, 12101, and 12801 of this code, and Sections 8100,
32 8101, and 8103 of the Welfare and Institutions Code, the term
33 "firearm" includes the frame or receiver of the weapon.

34 (d) For the purposes of Sections 12025 and 12031, the term
35 "firearm" also shall include any rocket, rocket propelled
36 projectile launcher, or similar device containing any explosive or
37 incendiary material whether or not the device is designed for
38 emergency or distress signaling purposes.

39 (e) For purposes of Sections 12070, 12071, and paragraph (8)
40 of subdivision (a), and subdivisions (b), (c), (d), and (f) of

1 Section 12072, the term “firearm” does not include an unloaded
2 firearm that is defined as an “antique firearm” in Section
3 921(a)(16) of Title 18 of the United States Code.

4 (f) Nothing shall prevent a device defined as a “handgun,”
5 “pistol,” “revolver,” or “firearm capable of being concealed upon
6 the person” from also being found to be a short-barreled shotgun
7 or a short-barreled rifle, as defined in Section 12020.

8 (g) For purposes of Sections 12551 and 12552, the term “BB
9 device” means any instrument that expels a projectile, such as a
10 BB or a pellet, not exceeding 6mm caliber, through the force of
11 air pressure, gas pressure, or spring action, or any spot marker
12 gun.

13 (h) As used in this title, “wholesaler” means any person who is
14 licensed as a dealer pursuant to Chapter 44 (commencing with
15 Section 921) of Title 18 of the United States Code and the
16 regulations issued pursuant thereto who sells, transfers, or
17 assigns firearms, or parts of firearms, to persons who are licensed
18 as manufacturers, importers, or gunsmiths pursuant to Chapter 44
19 (commencing with Section 921) of Title 18 of the United States
20 Code, or persons licensed pursuant to Section 12071, and
21 includes persons who receive finished parts of firearms and
22 assemble them into completed or partially completed firearms in
23 furtherance of that purpose.

24 “Wholesaler” shall not include a manufacturer, importer, or
25 gunsmith who is licensed to engage in those activities pursuant to
26 Chapter 44 (commencing with Section 921) of Title 18 of the
27 United States Code or a person licensed pursuant to Section
28 12071 and the regulations issued pursuant thereto. A wholesaler
29 also does not include those persons dealing exclusively in grips,
30 stocks, and other parts of firearms that are not frames or receivers
31 thereof.

32 (i) As used in Section 12071 or 12072, “application to
33 purchase” means any of the following:

34 (1) The initial completion of the register by the purchaser,
35 transferee, or person being loaned the firearm as required by
36 subdivision (b) of Section 12076.

37 (2) The initial completion and transmission to the department
38 of the record of electronic or telephonic transfer by the dealer on
39 the purchaser, transferee, or person being loaned the firearm as
40 required by subdivision (c) of Section 12076.

1 (j) For purposes of Section 12023, a firearm shall be deemed
2 to be “loaded” whenever both the firearm and the unexpended
3 ammunition capable of being discharged from the firearm are in
4 the immediate possession of the same person.

5 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
6 12072, 12073, 12078, 12101, and 12801 of this code, and
7 Sections 8100, 8101, and 8103 of the Welfare and Institutions
8 Code, notwithstanding the fact that the term “any firearm” may
9 be used in those sections, each firearm or the frame or receiver of
10 the same shall constitute a distinct and separate offense under
11 those sections.

12 (l) For purposes of Section 12020, a violation of that section as
13 to each firearm, weapon, or device enumerated therein shall
14 constitute a distinct and separate offense.

15 (m) Each application that requires any firearms eligibility
16 determination involving the issuance of any license, permit, or
17 certificate pursuant to this title shall include two copies of the
18 applicant’s fingerprints on forms prescribed by the Department
19 of Justice. One copy of the fingerprints may be submitted to the
20 United States Federal Bureau of Investigation.

21 (n) As used in this chapter, a “personal handgun importer”
22 means an individual who meets all of the following criteria:

23 (1) He or she is not a person licensed pursuant to Section
24 12071.

25 (2) He or she is not a licensed manufacturer of firearms
26 pursuant to Chapter 44 (commencing with Section 921) of Title
27 18 of the United States Code.

28 (3) He or she is not a licensed importer of firearms pursuant to
29 Chapter 44 (commencing with Section 921) of Title 18 of the
30 United States Code and the regulations issued pursuant thereto.

31 (4) He or she is the owner of a pistol, revolver, or other
32 firearm capable of being concealed upon the person.

33 (5) He or she acquired that pistol, revolver, or other firearm
34 capable of being concealed upon the person outside of California.

35 (6) He or she moves into this state on or after January 1, 1998,
36 as a resident of this state.

37 (7) He or she intends to possess that pistol, revolver, or other
38 firearm capable of being concealed upon the person within this
39 state on or after January 1, 1998.

1 (8) The pistol, revolver, or other firearm capable of being
2 concealed upon the person was not delivered to him or her by a
3 person licensed pursuant to Section 12071 who delivered that
4 firearm following the procedures set forth in Section 12071 and
5 subdivision (c) of Section 12072.

6 (9) He or she, while a resident of this state, had not previously
7 reported his or her ownership of that pistol, revolver, or other
8 firearm capable of being concealed upon the person to the
9 Department of Justice in a manner prescribed by the department
10 that included information concerning him or her and a
11 description of the firearm.

12 (10) The pistol, revolver, or other firearm capable of being
13 concealed upon the person is not a firearm that is prohibited by
14 subdivision (a) of Section 12020.

15 (11) The pistol, revolver, or other firearm capable of being
16 concealed upon the person is not an assault weapon, as defined in
17 Section 12276 or 12276.1.

18 (12) The pistol, revolver, or other firearm capable of being
19 concealed upon the person is not a machinegun, as defined in
20 Section 12200.

21 (13) The person is 18 years of age or older.

22 (o) For purposes of paragraph (6) of subdivision (n):

23 (1) Except as provided in paragraph (2), residency shall be
24 determined in the same manner as is the case for establishing
25 residency pursuant to Section 12505 of the Vehicle Code.

26 (2) In the case of members of the Armed Forces of the United
27 States, residency shall be deemed to be established when he or
28 she was discharged from active service in this state.

29 (p) As used in this code, “basic firearms safety certificate”
30 means a certificate issued by the Department of Justice pursuant
31 to Article 8 (commencing with Section 12800) of Chapter 6 of
32 Title 2 of Part 4, prior to January 1, 2003.

33 (q) As used in this code, “handgun safety certificate” means a
34 certificate issued by the Department of Justice pursuant to Article
35 8 (commencing with Section 12800) of Chapter 6 of Title 2 of
36 Part 4, as that article is operative on or after January 1, 2003.

37 (r) As used in this title, “gunsmith” means any person who is
38 licensed as a dealer pursuant to Chapter 44 (commencing with
39 Section 921) of Title 18 of the United States Code and the
40 regulations issued pursuant thereto, who is engaged primarily in

1 the business of repairing firearms, or making or fitting special
2 barrels, stocks, or trigger mechanisms to firearms, or the agent or
3 employee of that person.

4 *SEC. 11.1. Section 12022.53 of the Penal Code is amended to*
5 *read:*

6 12022.53. (a) This section applies to the following felonies:

7 (1) Section 187 (murder).

8 (2) Section 203 or 205 (mayhem).

9 (3) Section 207, 209, or 209.5 (kidnapping).

10 (4) Section 211 (robbery).

11 (5) Section 215 (carjacking).

12 (6) Section 220 (assault with intent to commit a specified
13 felony).

14 (7) Subdivision (d) of Section 245 (assault with a firearm on a
15 peace officer or firefighter).

16 (8) Section 261 or 262 (rape).

17 (9) Section 264.1 (rape or sexual penetration in concert).

18 (10) Section 286 (sodomy).

19 (11) Section 288 or 288.5 (lewd act on a child).

20 (12) Section 288a (oral copulation).

21 (13) Section 289 (sexual penetration).

22 (14) Section 4500 (assault by a life prisoner).

23 (15) Section 4501 (assault by a prisoner).

24 (16) Section 4503 (holding a hostage by a prisoner).

25 (17) Any felony punishable by death or imprisonment in the
26 state prison for life.

27 (18) Any attempt to commit a crime listed in this subdivision
28 other than an assault.

29 (b) Notwithstanding any other provision of law, any person
30 who, in the commission of a felony specified in subdivision (a),
31 personally uses a firearm, shall be punished by an additional and
32 consecutive term of imprisonment in the state prison for 10 years.
33 The firearm need not be operable or loaded for this enhancement
34 to apply.

35 (c) Notwithstanding any other provision of law, any person
36 who, in the commission of a felony specified in subdivision (a),
37 personally and intentionally discharges a firearm, shall be
38 punished by an additional and consecutive term of imprisonment
39 in the state prison for 20 years.

(d) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life.

(e) (1) The enhancements provided in this section shall apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:

(A) The person violated subdivision (b) of Section 186.22.

(B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).

(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the ~~information or indictment~~ *accusatory pleading* and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment *for that enhancement* pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another ~~provision of law~~ *enhancement* provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

SEC. 12. Section 12553 of the Penal Code is amended to read:

12553. (a) (1) Any person who changes, alters, removes, or obliterates any coloration or markings that are required by any applicable state or federal law or regulation, for any imitation firearm, or device described in subdivision (c) of Section 12555, in any way that makes the imitation firearm or device look more like a firearm is guilty of a misdemeanor.

(2) This subdivision shall not apply to a manufacturer, importer, or distributor of imitation firearms or to the lawful use in theatrical productions, including motion pictures, television, and stage productions.

1 (b) Any manufacturer, importer, or distributor of imitation
2 firearms that fails to comply with any applicable federal law or
3 regulation governing the marking of a toy, look-alike or imitation
4 firearm as defined by federal law or regulation is guilty of a
5 misdemeanor.

6 SEC. 13. Section 241.1 of the Welfare and Institutions Code
7 is amended to read:

8 241.1. (a) Whenever a minor appears to come within the
9 description of both Section 300 and Section 601 or 602, the
10 county probation department and the child welfare services
11 department shall, pursuant to a jointly developed written protocol
12 described in subdivision (b), initially determine which status will
13 serve the best interests of the minor and the protection of society.
14 The recommendations of both departments shall be presented to
15 the juvenile court with the petition that is filed on behalf of the
16 minor, and the court shall determine which status is appropriate
17 for the minor. Any other juvenile court having jurisdiction over
18 the minor shall receive notice from the court, within five calendar
19 days, of the presentation of the recommendations of the
20 departments. The notice shall include the name of the judge to
21 whom, or the courtroom to which, the recommendations were
22 presented.

23 (b) The probation department and the child welfare services
24 department in each county shall jointly develop a written
25 protocol to ensure appropriate local coordination in the
26 assessment of a minor described in subdivision (a), and the
27 development of recommendations by these departments for
28 consideration by the juvenile court. These protocols shall require,
29 which requirements shall not be limited to, consideration of the
30 nature of the referral, the age of the minor, the prior record of the
31 minor's parents for child abuse, the prior record of the minor for
32 out-of-control or delinquent behavior, the parents' cooperation
33 with the minor's school, the minor's functioning at school, the
34 nature of the minor's home environment, and the records of other
35 agencies ~~which~~ *that* have been involved with the minor and his or
36 her family. The protocols also shall contain provisions for
37 resolution of disagreements between the probation and child
38 welfare services departments regarding the need for dependency
39 or ward status and provisions for determining the circumstances

1 under which a new petition should be filed to change the minor's
2 status.

3 (c) Whenever a minor who is under the jurisdiction of the
4 juvenile court of a county pursuant to Section 300, 601, or 602 is
5 alleged to come within the description of Section 300, 601, or
6 602 by another county, the county probation department or child
7 welfare services department in the county that has jurisdiction
8 under Section 300, 601, or 602 and the county probation
9 department or child welfare services department of the county
10 alleging the minor to be within one of those sections shall
11 initially determine which status will best serve the best interests
12 of the minor and the protection of society. The recommendations
13 of both departments shall be presented to the juvenile court in
14 which the petition is filed on behalf of the minor, and the court
15 shall determine which status is appropriate for the minor. In
16 making their recommendation to the juvenile court, the
17 departments shall conduct an assessment consistent with the
18 requirements of subdivision (b). Any other juvenile court having
19 jurisdiction over the minor shall receive notice from the court in
20 which the petition is filed within five calendar days of the
21 presentation of the recommendations of the departments. The
22 notice shall include the name of the judge to whom, or the
23 courtroom to which, the recommendations were presented.

24 (d) Except as provided in subdivision (e), nothing in this
25 section shall be construed to authorize the filing of a petition or
26 petitions, or the entry of an order by the juvenile court, to make a
27 minor simultaneously both a dependent child and a ward of the
28 court.

29 (e) Notwithstanding ~~the provisions of~~ subdivision (d), the
30 probation department and the child welfare services department,
31 in consultation with the presiding judge of the juvenile court, in
32 any county may create a jointly written protocol to allow the
33 county probation department and the child welfare services
34 department to jointly assess and produce a recommendation that
35 the child be designated as a dual status child, allowing the child
36 to be simultaneously a dependent child and a ward of the court.
37 This protocol shall be signed by the chief probation officer, the
38 director of the county social services agency, and the presiding
39 judge of the juvenile court prior to its implementation. No
40 juvenile court may order that a child is simultaneously a

1 dependent child and a ward of the court pursuant to this
2 subdivision unless and until the required protocol has been
3 created and entered into. This protocol shall include:

4 (1) A description of the process to be used to determine
5 whether the child is eligible to be designated as a dual status
6 child.

7 (2) A description of the procedure by which the probation
8 department and the child welfare services department will assess
9 the necessity for dual status for specified children and the process
10 to make joint recommendations for the court's consideration
11 prior to making a determination under this section. These
12 recommendations shall ensure a seamless transition from
13 wardship to dependency jurisdiction, as appropriate, so that
14 services to the child are not disrupted upon termination of the
15 wardship.

16 (3) A provision for ensuring communication between the
17 judges who hear petitions concerning children for whom
18 dependency jurisdiction has been suspended while they are
19 within the jurisdiction of the juvenile court pursuant to Section
20 601 or 602. A judge may communicate by providing a copy of
21 any reports filed pursuant to Section 727.2 concerning a ward to
22 a court that has jurisdiction over dependency proceedings
23 concerning the child.

24 (4) A plan to collect data in order to evaluate the protocol
25 pursuant to Section 241.2.

26 (5) Counties that exercise the option provided for in this
27 subdivision shall adopt either an "on-hold" system as described
28 in subparagraph (A) or a "lead court/lead agency" system as
29 described in subparagraph (B). In no case shall there be any
30 simultaneous or duplicative case management or services
31 provided by both the county probation department and the child
32 welfare services department. It is the intent of the Legislature that
33 judges, in cases in which more than one judge is involved, shall
34 not issue conflicting orders.

35 (A) In counties in which an on-hold system is adopted, the
36 dependency jurisdiction shall be suspended or put on hold while
37 the child is subject to jurisdiction as a ward of the court. When it
38 appears that termination of the court's jurisdiction, as established
39 pursuant to Section 601 or 602, is likely and that reunification of
40 the child with his or her parent or guardian would be detrimental

1 to the child, the county probation department and the child
2 welfare services department shall jointly assess and produce a
3 recommendation for the court regarding whether the court's
4 dependency jurisdiction shall be resumed.

5 (B) In counties in which a lead court/lead agency system is
6 adopted, the protocol shall include a method for identifying
7 which court or agency will be the lead court/lead agency. That
8 court or agency shall be responsible for case management,
9 conducting statutorily mandated court hearings, and submitting
10 court reports.

11 SEC. 14. Section 3150 of the Welfare and Institutions Code is
12 amended to read:

13 3150. (a) Commencing July 1, 2005, any reference to the
14 Narcotic Addict Evaluation Authority refers to the Board of
15 Parole Hearings, any reference to the chairperson of the authority
16 is to the chair of the board, and any reference to a member of the
17 authority is to a commissioner of the board.

18 (b) The board shall conduct a full and complete study of the
19 cases of all patients who are certified by the Secretary of the
20 Department of Corrections and Rehabilitation to the board as
21 having recovered from addiction or imminent danger of addiction
22 to the extent that release in an outpatient status is warranted.

23 (c) Members of other similar boards may be assigned to hear
24 cases and make recommendations to the board on these matters.
25 Those recommendations shall be made in accordance with
26 policies established by a majority of the total membership of the
27 board.

28 SEC. 14.1. *The amendments to subdivision (j) of Section*
29 *12022.53 in Section 11.1 of this act are declaratory of existing*
30 *law as set forth by the California Supreme Court in People v.*
31 *Shabazz (2006) 38 Cal.4th 55, 66-70.*

32 SEC. 15. No reimbursement is required by this act pursuant
33 to Section 6 of Article XIII B of the California Constitution
34 because the only costs that may be incurred by a local agency or
35 school district will be incurred because this act creates a new
36 crime or infraction, eliminates a crime or infraction, or changes
37 the penalty for a crime or infraction, within the meaning of
38 Section 17556 of the Government Code, or changes the
39 definition of a crime within the meaning of Section 6 of Article
40 XIII B of the California Constitution.

1 SEC. 16. Any section of any act other than ~~_____~~ *Senate Bill*
2 *1852* enacted by the Legislature during the 2006 calendar year
3 that takes effect on or before January 1, 2007, and that amends,
4 amends and renumbers, adds, repeals and adds, or repeals any
5 one or more of the sections affected by this act, shall prevail over
6 this act, whether this act is enacted prior to, or subsequent to, the
7 enactment of that act. The repeal, or repeal and addition, of any
8 article, chapter, part, title, or division of any code by this act shall
9 not become operative if any section of any other act other than
10 ~~_____~~ *Senate Bill 1852* that is enacted by the Legislature during
11 the 2006 calendar year and takes effect on or before January 1,
12 2007, amends, amends and renumbers, adds, repeals and adds, or
13 repeals any section contained in that article, chapter, part, title, or
14 division.

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